



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

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CERTIFIED MAIL

January 23, 2007

Richard A. Nylen, Esq.  
Lynch DeSimone & Nylen, LLP  
12 Post Office Square  
Boston, Massachusetts 02109

Re: NEWBURYPORT - Solid Wastes/COR  
Crow Lane Landfill  
Force Majeure –Enclosed Flare  
Approval  
FMF No. 39545

Dear Attorney Nylen:

The Massachusetts Department of Environmental Protection, Northeast Regional Office, Bureau of Waste Prevention, Solid Waste Management Section ("MassDEP") and the Office of the Attorney General is in receipt of your letter dated January 22, 2007 informing MassDEP that New Ventures, LLC ("New Ventures") experienced a delay complying with the requirements of paragraph 1 (b) of the Preliminary Injunction entered on October 20, 2006 in *Commonwealth of Massachusetts v. New Ventures Associates, LLC*, Suffolk Superior Court, Civil Action No. 06-0790 C (the "Order") due to extraordinarily high winds and other adverse weather conditions described in your request.

As you know, paragraph 1 (b) of the Order requires that New Ventures install and begin operation of the enclosed flare at the Crow Lane Landfill within ninety (90) days of the Order, or by January 18, 2007.

Your letters states that due to the weather conditions that occurred on Saturday, January 13, 2007 and Wednesday, January 17, 2007, New Ventures was unable to complete the preparation of the base for flare as had been expected. As a result, the enclosed flare will be shipped to the landfill on Tuesday January 23, 2007, and your letter states that full installation will require two (2) days.

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MassDEP and the Office of the Attorney General acknowledge that New Ventures, in addition to the January 22, 2007 written submittal, provided notice via email to MassDEP on January 19, 2007 regarding the delay in compliance with the installation of the enclosed flare in accordance with paragraph 1(b) because of the delays due to the extraordinary weather events.

MassDEP and the Office of the Attorney General have reviewed New Ventures' request that the deadline for a return to compliance with the enclosed flare requirements of paragraph 1 (b) of the Order be subject to the Force Majeure provisions of paragraphs 16 through 18 of the Order. The Department and the Office of the Attorney General have determined that the weather conditions were Force Majeure events and have extended by two (2) days from the date of this letter New Ventures deadline to return to compliance with the requirements of paragraph 1(b).

If you have any questions please contact me at (978) 694-3299.

Sincerely,

**This final document copy is being provided to you electronically by the  
Massachusetts Department of Environmental Protection.  
A signed copy of this document  
is on file at the DEP office listed on the letterhead.**

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John A. Carrigan, Chief  
Solid Waste Management Section

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JAC/jac

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